

REMARKS

Claims 1-31 are currently pending. Claims 17-30 have been withdrawn from consideration. Claims 1-16 and 31 were rejected.

Applicants have amended claims 1, 2, 4-6, 9, 10, 13 and 31 and canceled claims 3, 11, 12 and 14-16 without prejudice to reclaiming the subject matter therein in a subsequent application.

The amendments are fully supported by the specification and introduce no new matter. To wit:

The amendment of claim 1 separates the elements to assist in the understanding of the claim. It is submitted that a "metallic" stent body is equivalent to "a stent body constructed of a material including a stent metallic substance," only easier to read and understand. Likewise a "molecular carbon deposit" is the equivalent of "a carbon deposit present at a molecular level." A newly added limitation is that the molecular carbon deposit is present at a depth of not more than about 2000 angstroms (Å), which finds support in the specification at page 4, paragraph [015]. A further newly added limitation is "a plasma-polymerized polymer layer deposited over the surface of the stent body," which finds support in the specification at paragraph [006] and paragraphs [021] – [025].

The amendments to each of the dependent claims are solely for the purpose of clarifying that which applicants consider the invention and introduce no new matter.

35 USC §102(b) rejection of claims 1, 8 and 9

The examiner has rejected claims 1, 8 and 9 as being anticipated by Shimada (JP 11/313884). In the examiner's view Shimada discloses a stent being stainless steel and carbon being deposited into the substrate.

Applicants traverse.

Applicants' response

Shimada is directed solely to the formation of a diamond-like carbon layer over the surface of a stent to provide a more biocompatible stent. There is no mention of a plasma-polymerized polymer layer such as that present in amended claim 1. Since claims 8 and 9 depend from claim 1, they must incorporate this element of amended claim 1. Thus, Shimada does not anticipate claims 1, 8 and/or 9. The examiner is requested to reconsider and withdraw the rejection.

35 USC § 103(a) rejection of claims 1-66 and 31

The examiner has rejected claims 1-6 and 31 as being unpatentable over Kamath, et al. (U.S. Pat. No. 6,335,029) in view of Ecer, et al. (U.S. Pat. No. 4,486,247). The examiner notes that Kamath discloses an implantable medical device that may be metallic, including stainless steel. The examiner then opines that while Kamath does not disclose "what type of stainless steel material for making the stent specifically stainless steel material containing carbon implanted within the surface as claimed," it is, in the examiner's view, "well-known in the art that stainless steel materials containing carbon implanted with surface as claimed enhance strength and harden a stainless steel surface." The examiner then goes on to opine that Ecer discloses a stainless steel base material that is modified by having carbon implanted in the surface of the stainless steel base material in order to enhance wear resistance and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Ecer stainless steel containing implanted carbon for a Kamath stent in order to improve wear resistance.

Applicants traverse.

Applicants' response

Kamath is directed, as its title unambiguously reveals, to "Polymeric Coatings for Controlled Delivery of Active Agents." The single mention of stainless steel is in column 4, lines 56-57 where it is stated that "... the base material may be formed of stainless steel ..." There is not the slightest suggestion in Kamath

that there is any issue with wear resistance in the stainless steel. In fact the base material never directly contacts the external environment since it is covered by at least two layers of additional materials, a bioactive agent-polymer composite layer **5** (col. 5, lines 17-21) and a barrier layer **20** positioned over the bioactive agent-polymer composite layer(s) (col. 7, lines 30-33). One of ordinary skill in the art would have no cause, for any conceivable reason, to consider using the Ecer invention to enhance the wear resistance of the stainless steel used by Kamath; such would simply not enter the artisan's mind. Thus, the current invention is not obvious and therefore unpatentable over Kamath in view of Ecer.

The examiner is requested to reconsider and withdraw the rejection.

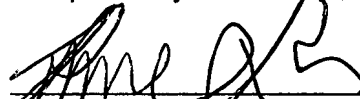
CONCLUSION

Applicants believe, based on the amendments to the claims herein and the above remarks, that this application is in condition for allowance and respectfully request that it be passed to issue.

Date: September 24, 2007

Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza, Suite 300
San Francisco, CA 94111
Telephone (415) 393-9882
Facsimile (415) 393-9887

Respectfully submitted,



Bernard F. Rose
Attorney for Applicants
Reg. No. 42,112